VPH

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL No. 320 OF 2007
IN
CHAMBER SUMMONS No. 925 OF 2006
IN
SUIT No. 34 OF 2001

Suresh Enterprises ... Applicant

Vs.

Champaben C. Ashar & Ors. Respondents

Mr. Ravi Kadam, Sr. Advocate with Mr. A. Bookwala, Sr. Advocate with Ashosh Kamath i/b for Applicant.

Mr. Shailesh Shah with Mr. Amit Shrof, Advocate for respondent no.2 to 4.

CORAM : R. M. S. KHANDEPARKAR
AND
D. G. KARNIK, JJ.

DATE : JUNE 7, 2007.

PC :-

. Heard. Admit. By consent heard forthwith. The learned advocate Mr. Shailesh Shah waives service for respondent Nos. 2 to 4, and submits that respondent No.1 expired and respondent Nos. 2 to 4 are the legal heirs of respondent No.1.

2. By consent, the impugned order is

hereby set aside and matter is remanded to the learned Single Judge to decide the Application under O. 21, Rule 22 of Civil Procedure Code afresh, in accordance with the provisions of law. Liberty to the parties to lead evidence in accordance with the provisions of law, in support of rival contentions. In the facts and circumstances of the case, the matter is remanded for the expeditious disposal.

3. Meanwhile the order of directing status-quo to continue to be in force till the learned Single Judge passes final order or otherwise in the proceeding. It is made clear that we have not expressed an opinion on any of the points raised in the matter, on merits and all the issues issues are kept open.

4. Appeal accordingly stands disposed of.

No order as to costs.

[D. G. KARNIK, J.] [R.M.S. KHANDEPARKAR, J.]